



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Beckman Instruments, Inc.

File: B-230701

Date: March 31, 1988

DIGEST

Protest against alleged solicitation impropriety is untimely when filed after the closing date for receipt of initial proposals.

DECISION

Beckman Instruments, Inc. protests the award of a contract under request for proposals (RFP) No. F49642-88-R-0118 issued by the Department of the Air Force for the acquisition of two automated chemistry analyzers, chemical reagents, calibrators, controls, related reference standards and expendable supplies. Beckman's proposal was found to be unacceptable because it did not meet all of the requirements of the solicitation.

Beckman submitted a proposal in response to a solicitation for the chemical analyzers and related supplies to be used in a laboratory at Andrews Air Force Base. Beckman asserts that its equipment can perform the majority of the test volume of this laboratory and that the laboratory already has the capacity to perform the tests that the Beckman analyzer cannot perform. Beckman alleges that its proposal was unacceptable because the specifications were written for one machine, the Kodak Ektachem.

Beckman, in so alleging, concedes that what it proposed did not meet the RFP specifications. Accordingly, the Air Force acted properly in rejecting the proposal since an agency may not accept a nonconforming offer.

To the extent Beckman complains about the specifications, the protest is untimely. Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals be filed prior to closing.

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4 C.F.R. § 21.2(a)(1) (1987). Beckman realized before it submitted its proposal that its equipment did not meet all of the solicitation's requirements, but instead of protesting before it submitted its proposal, Beckman waited until after its proposal was rejected to file the protest. A protest of the specifications under such circumstances is untimely.

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel